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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,526	08/05/2003	Bihua Liu	001A	6893

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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07/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/634,526

Applicant(s)

LIU, BIHUA

Examiner

Dmitry Suhol

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 16-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The indicated allowability of claims 16-25 is withdrawn in view of the newly discovered reference(s) to Taubl and Lynden. Rejections based on the newly cited reference(s) follow.

Claim Objections

Claims 16, 17, 24 and 25 are objected to because of the following informalities: Claim 16 repeats the identifiers (a-g) for different steps. For clarity, it appears that use of different identifiers may be useful (a-i), (i-vii) for example. Claim 17 is similar. It appears that claims 24 and 25 should be amended. For example in claim 24, "The oil of claim 18 which is mineral oil" should be changed to --The method of claim 18 wherein the oil is mineral oil-- for clarity. (Compare with claims 22 and 23). Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taubl '989 in view of Lynden '871, Talmas (Oil and Water Painting) and with or without

“Water Art”. Taubl teaches preparing a canvas (col. 4, lines 44-46), placing a blank transferring paper (col. 3, lines 60-65) inside a base pan (col. 2, line 28), moisturizing the blank transferring paper to form a film of water (col. 2, line 39), depositing one or multiple flowing colors on the wetted blank transferring paper (col. 2, lines 46-67) [the step of submerging the blank transferring paper in the water and paint meets the step of moisturizing the blank with water and depositing colors], directing the flowing colors to flow freely and mix with each other (marbling in col. 1, line 10), facing the canvas (col. 4, lines 44-46) to the transferring paper (col. 3, lines 61-65), and transferring the flowing colors from the transferring paper (col. 3, lines 60-65) to the canvas (col. 4, lines 44-46).

Taubl does not specifically disclose that the canvas is a “painted” canvas and the making of the “painted canvas” including placing a blank canvas inside a base pan, moisturizing the blank canvas to form a film of water, depositing one or multiple flowing colors on the wetted blank canvas, directing the flowing colors to flow freely and mix with each other, moving the base pan to direct the flowing colors into various directions to form desired shape or image, drying the blank canvas, and using a masking paper.

Lynden teaches multi-step painting including painting a canvas (figure 1) and letting the paint dry. Thereafter, a mask (15) is used and the painted canvas is again painted (figure 2) with another design.

Talmas teaches “marbling” similar to Taubl including the steps of placing a blank canvas inside a base pan, moisturizing the blank canvas to form a film of water, depositing one or multiple flowing colors on the wetted blank canvas, directing the flowing colors to flow freely and mix with each other, move the base pan to direct the

flowing colors into various directions to form desired shape or image, and drying the blank canvas. Talmas specifically discloses "add two drops or three of water paint on his paper which would be placed in a box, then add two or three drop of oil paint on it. Then have the child to rock the box and see how colors mix".

"Water Art" discloses also teaches "marbling" using oil based paint.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Taubl with: painting a canvas and letting the paint dry, thereafter, using a mask and again painting the already painted previously painted canvas with another design, in light of the teachings of Lynden, in order to provide a multi-patterned canvas having the desired aesthetic design.

Furthermore, it would have been obvious to one of ordinary skill in the art, to have provided the invention of Taubl/Lynden with placing a blank canvas inside a base pan, moisturizing the blank canvas to form a film of water, depositing one or multiple flowing colors on the wetted blank canvas, directing the flowing colors to flow freely and mix with each other, moving the base pan to direct the flowing colors into various directions to form desired shape or image, and drying the blank canvas, in light of the teachings of Talmas, in order to provide a canvas having the desired marbling effect and painting design.

If the above references do not inherently disclose the use of oil based paint, "Water Art" clearly discloses using oil based paint.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to have used oil based paint, in light of the teachings of "Water Art", in order to provide a paint having the desired color and aesthetical design.

As noted in the non-final rejection mailed 2-17-05, the specific ratios of pigment to oil, since "Water Art" discloses general conditions of diluted oil based paint, it would have been obvious to one of ordinary skill in the art to utilize the claimed ratios of oil based pigment to oil since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges, involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 20-25, the specific pigment and type of oil used in the paint would have been obvious as the examiner takes official notice that such oil mixtures are notoriously known in the art and do not patentably distinguish the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Primary Examiner
Art Unit 3725

ds